

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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| LARRY ROGERS and MAE ROGERS, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. 12-10701-LTS |
| |) | |
| BRIAN BLUE, et al., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

ORDER ON DOCUMENTS WITHHELD BY PRIOR COUNSEL

December 11, 2014

SOROKIN, J.

Previously, the Court permitted prior counsel for the plaintiffs to retain two documents from the case file, Doc. No. 81, subject to in camera review by the Court for a determination as to whether the plaintiffs would suffer unfair prejudice if they did not receive the documents. Doc. No. 85. Prior counsel submitted the documents, Doc. No. 88, and the Court has conducted its review. The Court finds that the plaintiffs could be unfairly prejudiced in their litigation of this case without the documents. Ms. Rogers is both a percipient witness and a plaintiff. The investigator's report provides meaningful facts regarding possible witnesses. The Court makes this finding out of an abundance of caution, and notes that the contents of Ms. Rogers's deposition are likely known to her and that the contents of the investigator's report likely are known to or ascertainable by the plaintiffs. Prior counsel shall provide the plaintiffs a copy of the two disputed documents within seven days.

In an October 30, 2014 Order, the Court established November 12, 2014 as the deadline for the plaintiffs to respond to the defendants' motion for summary judgment. Doc. No. 71. In a November 13, 2014 Order, the Court extended this deadline to December 1, 2014. Doc. No. 77. In a December 2, 2014 Order, the Court extended, again, the deadline for responding to the summary judgment motion to December 15, 2014. Doc. No. 85. At that time, the Court warned the plaintiffs that a failure to respond to the Motion may result in the dismissal of their lawsuit either for failure to prosecute or as a sanction for failing to comply with the Court's orders. Doc. No. 85 at 2. The Court in part issued the foregoing extensions to permit the plaintiffs a fair opportunity to obtain the complete file from their former counsel to aid them in their response to the Motion for Summary Judgment. Accordingly, in light of this consideration, the Court will extend the deadline for the plaintiffs to respond to the Motion for Summary Judgment to January 5, 2015. This will permit the plaintiffs to review the additional two documents before the deadline. **The plaintiffs are reminded of the Court's prior warning, which the Court reiterates here, "that if they [the plaintiffs] fail to respond to the Motion for Summary Judgment, the Court may dismiss their case either for failure to prosecute or as a sanction for failure to comply with a Court order."** Doc. No. 85 at 2.

SO ORDERED.

/s/ Leo T. Sorokin
Leo T. Sorokin
United States District Judge